

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1300

By: Rader

AS INTRODUCED

An Act relating to sales tax; amending 68 O.S. 2021, Section 1359, which relates to exemptions; expanding exemption on tangible personal property consumed or incorporated in a new facility to include certain industries; modifying definition; updating statutory language; updating statutory reference; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1359, is amended to read as follows:

Section 1359. Exemptions - Manufacturing.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sales of goods, wares, merchandise, tangible personal property, machinery, and equipment to a manufacturer for use in a manufacturing operation. Goods, wares, merchandise, property, machinery, and equipment used in a nonmanufacturing activity or process as set forth in paragraph 14 of Section 1352 of this title shall not be eligible for the exemption provided for in this ~~subsection~~ paragraph by virtue of the activity or process being

1 performed in conjunction with or integrated into a manufacturing  
2 operation.

3 For the purposes of this paragraph, sales made to any person,  
4 firm, or entity that has entered into a contractual relationship for  
5 the construction and improvement of manufacturing goods, wares,  
6 merchandise, property, machinery, and equipment for use in a  
7 manufacturing operation shall be considered sales made to a  
8 manufacturer which is defined or classified in the North American  
9 Industry Classification System (NAICS) Manual under Industry Group  
10 No. 324110. Such purchase shall be evidenced by a copy of the sales  
11 ticket or invoice to be retained by the vendor indicating that the  
12 purchases are made for and on behalf of such manufacturer and set  
13 out the name of such manufacturer as well as include a copy of the  
14 ~~Manufacturing Exemption Permit~~ manufacturing exemption permit of the  
15 manufacturer. Any person who wrongfully or erroneously certifies  
16 that purchases are being made on behalf of such manufacturer or who  
17 otherwise violates this paragraph shall be guilty of a misdemeanor  
18 and upon conviction thereof shall be fined an amount equal to double  
19 the amount of sales tax involved or incarcerated for not more than  
20 sixty (60) days or both;

21 2. Ethyl alcohol when sold and used for the purpose of blending  
22 same with motor fuel on which motor fuel tax is levied by Section  
23 500.4 of this title;  
24  
25

1        3. Sales of containers when sold to a person regularly engaged  
2 in the business of reselling empty or filled containers or when  
3 purchased for the purpose of packaging raw products of farm, garden,  
4 or orchard for resale to the consumer or processor. This exemption  
5 shall not apply to the sale of any containers used more than once  
6 and which are ordinarily known as returnable containers, except  
7 returnable soft drink bottles and the cartons, crates, pallets, and  
8 containers used to transport returnable soft drink bottles. Each  
9 and every transfer of title or possession of such returnable  
10 containers in this state to any person who is not regularly engaged  
11 in the business of selling, reselling or otherwise transferring  
12 empty or filled containers shall be taxable under ~~this~~ the Oklahoma  
13 Sales Tax Code. Additionally, this exemption shall not apply to the  
14 sale of labels or other materials delivered along with items sold  
15 but which are not necessary or absolutely essential to the sale of  
16 the sold merchandise;

17        4. Sales of or transfers of title to or possession of any  
18 containers, after June 30, 1987, used or to be used more than once  
19 and which are ordinarily known as returnable containers and which do  
20 or will contain beverages defined by paragraphs 4 and 14 of Section  
21 506 of Title 37 of the Oklahoma Statutes, or water for human  
22 consumption and the cartons, crates, pallets, and containers used to  
23 transport such returnable containers;

1        5. Sale of tangible personal property when sold by the  
2 manufacturer to a person who transports it to a state other than  
3 ~~Oklahoma~~ this state for immediate and exclusive use in a state other  
4 than ~~Oklahoma~~ this state. Provided, no sales at a retail outlet  
5 shall qualify for the exemption under this paragraph;

6        6. Machinery, equipment, fuels ~~and~~, chemicals, or other  
7 materials incorporated into and directly used or consumed in the  
8 process of treatment to substantially reduce the volume or harmful  
9 properties of hazardous waste at treatment facilities specifically  
10 permitted pursuant to the Oklahoma Hazardous Waste Management Act  
11 and operated at the place of waste generation, or facilities  
12 approved by the Department of Environmental Quality for the cleanup  
13 of a site of contamination. The term "hazardous" waste may include  
14 low-level radioactive waste for the purpose of this paragraph;

15        7. Except as otherwise provided by subsection I of Section 3658  
16 of this title pursuant to which the exemption authorized by this  
17 paragraph may not be claimed, sales of tangible personal property to  
18 a qualified manufacturer, trade or service business, or distributor  
19 to be consumed or incorporated in a new manufacturing, trade or  
20 service business, or distribution facility or to expand an existing  
21 manufacturing, trade or service business, or distribution facility.  
22 For purposes of this paragraph, sales made to a contractor or  
23 subcontractor that has previously entered into a contractual  
24 relationship with a qualified manufacturer, trade or service

1 business, or distributor for construction or expansion of a  
2 manufacturing, trade or service business, or distribution facility  
3 shall be considered sales made to a qualified manufacturer, trade or  
4 service business, or distributor. For the purposes of this  
5 paragraph, ~~"qualified manufacturer or distributor"~~ "qualified  
6 manufacturer, trade or service business, or distributor" means:

7 a. any manufacturing or trade or service business

8 enterprise whose total cost of construction of a new  
9 or expanded facility exceeds the sum of Five Million  
10 Dollars (\$5,000,000.00) and in which at least one  
11 hundred (100) new full-time-equivalent employees, as  
12 certified by the Oklahoma Employment Security  
13 Commission, are added and maintained for a period of  
14 at least thirty-six (36) months as a direct result of  
15 the new or expanded facility,

16 b. any manufacturing or trade or service business

17 enterprise whose total cost of construction of a new  
18 or expanded facility exceeds the sum of Ten Million  
19 Dollars (\$10,000,000.00) and the combined cost of  
20 construction material, machinery, equipment, and other  
21 tangible personal property exempt from sales tax under  
22 the provisions of this paragraph exceeds the sum of  
23 Fifty Million Dollars (\$50,000,000.00) and in which at  
24 least seventy-five (75) new full-time-equivalent

1 employees, as certified by the Oklahoma Employment  
2 Security Commission, are added and maintained for a  
3 period of at least thirty-six (36) months as a direct  
4 result of the new or expanded facility,

5 c. any manufacturing or trade or service business

6 enterprise whose total cost of construction of an  
7 expanded facility exceeds the sum of Three Hundred  
8 Million Dollars (\$300,000,000.00) and in which the  
9 manufacturer has and maintains an average employment  
10 level of at least one thousand seven hundred fifty  
11 (1,750) full-time-equivalent employees, as certified  
12 by the Oklahoma Employment Security Commission, or

13 d. any enterprise primarily engaged in the general

14 wholesale distribution of groceries defined or  
15 classified in the North American Industry  
16 Classification System (NAICS) Manual under Industry  
17 Groups No. 4244 and 4245 and which has at least  
18 seventy-five percent (75%) of its total sales to in-  
19 state customers or buyers and whose total cost of  
20 construction of a new or expanded facility exceeds the  
21 sum of Forty Million Dollars (\$40,000,000.00) with  
22 such construction commencing on or after July 1, 2005,  
23 and before December 31, 2005, and which at least fifty  
24 new full-time-equivalent employees, as certified by

1 the Oklahoma Employment Security Commission, are added  
2 and maintained for a period of at least thirty-six  
3 (36) months as a direct result of the new or expanded  
4 facility.

5 For purposes of this paragraph, the total cost of construction  
6 shall include building and construction material and engineering and  
7 architectural fees or charges directly associated with the  
8 construction of a new or expanded facility. The total cost of  
9 construction shall not include attorney fees. For purposes of  
10 subparagraph c of this paragraph, the total cost of construction  
11 shall also include the cost of qualified depreciable property as  
12 defined in Section 2357.4 of this title and labor services performed  
13 in the construction of an expanded facility. For the purpose of  
14 subparagraph d of this paragraph, the total cost of construction  
15 shall also include the cost of all parking, security, and dock  
16 structures or facilities necessary to manage, process, or secure  
17 vehicles used to receive and/or distribute groceries through such a  
18 facility. The employment requirement of this paragraph can be  
19 satisfied by the employment of a portion of the required number of  
20 new full-time-equivalent employees at a manufacturing, trade or  
21 service business, or distribution facility that is related to or  
22 supported by the new or expanded manufacturing, trade or service  
23 business, or distribution facility as long as both facilities are  
24 owned by one person or business entity. For purposes of this

1 section, "manufacturing facility" and "trade or service business  
2 facility" shall mean building and land improvements ~~used in~~  
3 ~~manufacturing as defined in Section 1352 of this title~~ defined or  
4 classified in the NAICS Manual under Sector Nos. 31 through 33, 42,  
5 48-49, 54, and 56 and shall also mean building and land improvements  
6 used for the purpose of packing, repackaging, labeling, or  
7 assembling for distribution to market, products at least seventy  
8 percent (70%) of which are made in ~~Oklahoma~~ in this state by the  
9 same company but at an off-site, in-state manufacturing, trade or  
10 service business, or distribution facility or facilities. It shall  
11 not include a retail outlet unless the retail outlet is operated in  
12 conjunction with and on the same site or premises as the  
13 manufacturing or trade or service business facility. ~~Up to ten~~  
14 ~~percent (10%) of the square feet of a manufacturing or distribution~~  
15 ~~facility building may be devoted to office space used to provide~~  
16 ~~clerical support for the manufacturing operation. Such ten percent~~  
17 ~~(10%) may be in a separate building as long as it is part of the~~  
18 ~~same contiguous tract of property on which the manufacturing or~~  
19 ~~distribution facility is located.~~ Only sales of tangible personal  
20 property made after June 1, 1988, shall be eligible for the  
21 exemption provided by this paragraph. The exemption authorized  
22 pursuant to subparagraph d of this paragraph shall only become  
23 effective when the governing body of the municipality in which the  
24 enterprise is located approves a resolution expressing the



1 municipality's support for the construction for such new or expanded  
2 facility. Upon approval by the municipality, the municipality shall  
3 forward a copy of such resolution to the Oklahoma Tax Commission;

4 8. Sales of tangible personal property purchased and used by a  
5 licensed radio or television station in broadcasting. This  
6 exemption shall not apply unless such machinery and equipment is  
7 used directly in the manufacturing process, is necessary for the  
8 proper production of a broadcast signal, or is such that the failure  
9 of the machinery or equipment to operate would cause broadcasting to  
10 cease. This exemption begins with the equipment used in producing  
11 live programming or the electronic equipment directly behind the  
12 satellite receiving dish or antenna, and ends with the transmission  
13 of the broadcast signal from the broadcast antenna system. For  
14 purposes of this paragraph, "proper production" shall include, but  
15 not be limited to, machinery or equipment required by Federal  
16 Communications Commission rules and regulations;

17 9. Sales of tangible personal property purchased or used by a  
18 licensed cable television operator in cablecasting. This exemption  
19 shall not apply unless such machinery and equipment is used directly  
20 in the manufacturing process, is necessary for the proper production  
21 of a cablecast signal, or is such that the failure of the machinery  
22 or equipment to operate would cause cablecasting to cease. This  
23 exemption begins with the equipment used in producing local  
24 programming or the electronic equipment behind the satellite

1 receiving dish, microwave tower, or antenna, and ends with the  
2 transmission of the signal from the cablecast head-end system. For  
3 purposes of this paragraph, "proper production" shall include, but  
4 not be limited to, machinery or equipment required by Federal  
5 Communications Commission rules and regulations;

6 10. Sales of packaging materials for use in packing, shipping,  
7 or delivering tangible personal property for sale when sold to a  
8 producer of agricultural products. This exemption shall not apply  
9 to the sale of any packaging material which is ordinarily known as a  
10 returnable container;

11 11. Sales of any pattern used in the process of manufacturing  
12 iron, steel, or other metal castings. The exemption provided by  
13 this paragraph shall be applicable irrespective of ownership of the  
14 pattern provided that such pattern is used in the commercial  
15 production of metal castings;

16 12. Deposits or other charges made and which are subsequently  
17 refunded for returnable cartons, crates, pallets, and containers  
18 used to transport cement and cement products;

19 13. Beginning January 1, 1998, machinery, electricity, fuels,  
20 explosives, and materials, excluding chemicals, used in the mining  
21 of coal in this state;

22 14. Deposits, rent, or other charges made for returnable  
23 cartons, crates, pallets, and containers used to transport mushrooms  
24

1 or mushroom products from a farm for resale to the consumer or  
2 processor;

3 15. Sales of tangible personal property and services used or  
4 consumed in all phases of the extraction and manufacturing of  
5 crushed stone and sand, including but not limited to site  
6 preparation, dredging, overburden removal, explosive placement and  
7 detonation, onsite material hauling and/or transfer, material  
8 washing, screening and/or crushing, product weighing, and site  
9 reclamation; and

10 16. Sale, use, or consumption of paper stock and other raw  
11 materials which are manufactured into commercial printed material in  
12 this state primarily for use and delivery outside this state. For  
13 the purposes of this section, "commercial printed material" shall  
14 include magazines, catalogs, retail inserts, and direct mail.

15 SECTION 2. This act shall become effective November 1, 2024.  
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